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In re Application of
LUSK, Paul D. et al.
Application No.: 09/673,230
PCT Application No.: PCT/US99/07737
International Filing Date: 14 April 1999
Priority Date: 14 April 1998
Attorney Docket No.: 960067.ORI
For: DINITROTOLUENE (DNT)-FREE
SINGLE BASE PROPELLANT

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

This is a decision on applicants' "Third Renewed Petition," filed in the United States Patent and Trademark Office on 16 June 2003.

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BACKGROUND

On 14 April 1999, applicants filed international application PCT/US99/07737. A Demand for international preliminary examination was filed 27 October 1999. The thirty month period for entering the national stage in the United States expired at midnight on 16 October 2000 (14 October 2000 was a Saturday).

On 12 October 2000, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 27 October 2000, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required. The notification set a one month extendable period for reply. The application went abandoned on 28 April 2001 for failure to respond to the Notification of Missing Requirements.

On 19 November 2001, applicants submitted an executed declaration and a petition to revive.

On 02 July 2002, the Office mailed Decision On Petition Under 37 CFR 1.137(b) dismissing applicants' petition without prejudice.

On 10 July 2002, applicants submitted "Renewed Petition Under 37 CFR 1.137(b)".

On 23 August 2002, the Office mailed Notification of Defective Response.

On 22 November 2002, applicants submitted "Response to Notification of Defective Response."

On 14 March 2003, the Office mailed Decision On Petition Under 37 CFR 1.137(b) dismissing applicants' petition without prejudice.

On 16 June 2003, applicants submitted "Third Renewed Petition," accompanied by a petition for a one month extension of time.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

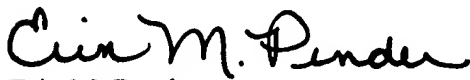
Items (1), (3) and (4) were previously satisfied.

Item (2) has now been satisfied. The declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 16 June 2003 under 35 U.S.C. §371.



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